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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,658	02/27/2004	Rodney W. Hoskins	7004/P9078	9184

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EXAMINER

YOUNG, JANELLE N

ART UNIT	PAPER NUMBER
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2618

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/789,658	Applicant(s) HOSKINS, RODNEY W.	
	Examiner Janelle N. Young	Art Unit 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Response to Arguments

2. Applicant's arguments with respect to claim 1 has been considered but are moot in view of the new ground(s) of rejection.

Wiatrowski et al. teaches a programmable communications receiver having multi-level priority sampling including (Abstract; Col. 1, lines 9-65; and Col. 3, line 41-Col. 4, line 9 of Wiatrowski et al.): a plurality of scan lists; which reads on claimed memory

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registers each register having a unique memory location, each memory register having a frequency associated therewith, and at least two of the memory registers having priority levels associated therewith, said priority levels being ranked whereby one priority level defines a higher priority than another (Col. 1, lines 14-17; Col. 3, lines 21-40; Col. 3, line 61-Col. 4, line 25; and Col. 9, line 31-Col. 10, line 3 of Wiatrowski et al.); communication unit's keys or user interface (Fig. 1:109 & 111 of Wiatrowski et al.); which reads on claimed frequency entry means, whereby a user may program or configure her/his communication unit; which reads on claimed may selectively enter frequencies into each of memory registers, according to the designation and priority level thereof (Col. 1, lines 18-20; Col. 3, lines 41-60; and Col. 4, lines 10-25 in respect to Col. 5, lines 44-65 of Wiatrowski et al.); controller which reads on claimed control means, for periodically switching the receiver to each priority frequency programmed into the memory registers in response to a predetermined sequence, the control means including means for maintaining the receiver on any frequency in response to a presence of signal from a detector means (Abstract and Col. 4, lines 9-49 of Wiatrowski et al.); means for detecting the presence of a signal on a frequency to which the control means has switched the receiver whereby the control means maintains the receiver on the switched frequency when the presence of a signal is detected (Abstract; Col. 2, lines 15-44; Col. 3, lines 17-35; and Col. 4, lines 32-54 of Wiatrowski et al.); and the predetermined sequence including the continued periodic switching of the receiver to all designated frequencies having priority rankings higher than any frequency to which the control means is maintaining the receiver, the control means maintaining the

receiver on any such higher priority frequency in response to a presence of signal from the detector means associated with such higher priority frequency whereby the receiver may monitor activity on multiple level frequencies substantially instantaneously switching the receiver to, and maintaining a listening watch on, the highest priority frequency currently in use (Abstract; Col. 3, line 61-Col. 4, line 25; and Col. 6, line 62-Col. 7, line 17 in respect to Col. 4, lines 50-67 of Wiatrowski et al.).

Response to Amendment

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 5 and 7-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Wiatrowski et al. (US Patent 5806002).

As for claim 1, Wiatrowski et al. teaches a programmable communications receiver having multi-level priority sampling including (Abstract; Col. 1, lines 9-65; and Col. 3, line 41-Col. 4, line 9 of Wiatrowski et al.):

a plurality of scan lists; which reads on claimed memory registers each register having a unique memory location, each memory register having a frequency associated therewith, and at least two of the memory registers having priority levels associated therewith, said priority levels being ranked whereby

one priority level defines a higher priority than another (Col. 1, lines 14-17; Col. 3, lines 21-40; Col. 3, line 61-Col. 4, line 25; and Col. 9, line 31-Col. 10, line 3 of Wiatrowski et al.);

communication unit's keys or user interface (Fig. 1:109 & 111 of Wiatrowski et al.); which reads on claimed frequency entry means, whereby a user may program or configure her/his communication unit; which reads on claimed may selectively enter frequencies into each of memory registers, according to the designation and priority level thereof (Col. 1, lines 18-20; Col. 3, lines 41-60; and Col. 4, lines 10-25 in respect to Col. 5, lines 44-65 of Wiatrowski et al.);

controller which reads on claimed control means, for periodically switching the receiver to each priority frequency programmed into the memory registers in response to a predetermined sequence, the control means including means for maintaining the receiver on any frequency in response to a presence of signal from a detector means (Abstract and Col. 4, lines 9-49 of Wiatrowski et al.);

means for detecting the presence of a signal on a frequency to which the control means has switched the receiver whereby the control means maintains the receiver on the switched frequency when the presence of a signal is detected (Abstract; Col. 2, lines 15-44; Col. 3, lines 17-35; and Col. 4, lines 32-54 of Wiatrowski et al.); and

the predetermined sequence including the continued periodic switching of the receiver to all designated frequencies having priority rankings higher than any

frequency to which the control means is maintaining the receiver, the control means maintaining the receiver on any such higher priority frequency in response to a presence of signal from the detector means associated with such higher priority frequency whereby the receiver may monitor activity on multiple level frequencies substantially instantaneously switching the receiver to, and maintaining a listening watch on, the highest priority frequency currently in use (Abstract; Col. 3, line 61-Col. 4, line 25; and Col. 6, line 62-Col. 7, line 17 in respect to Col. 4, lines 50-67 of Wiatrowski et al.).

As for claim 2, Wiatrowski et al. teaches a programmable communications receiver having multi-level priority sampling including:

a broadcast receiver (Col. 1, lines 17-42 and Col. 7, line 53-Col. 8, line 6 of Wiatrowski et al.) and the keyboard; which reads on claimed frequency entry means, including means whereby the user may enter a broadcast frequency to which the receiver shall be tuned until otherwise interrupted by the presence of a signal on one of the multiple level priority communications frequency (Col. 1, lines 17-42; Col. 6, lines 33-61; and Col. 9, line 31-Col. 10, line 2 in respect to Col. 5, lines 1-39 and Col. 7, lines 17-33 of Wiatrowski et al.).

As for claim 5, Wiatrowski et al. teaches a programmable communications receiver having multi-level priority sampling including means for blocking the receiver speaker and headphone audio during each periodic interval where the control means is sampling priority frequencies according to the predetermined sequence by correspondingly momentarily switching the communications receiver to each such

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frequency whereby such sampling does not significantly distract from reception on another active communications receiver frequency (Col. 6, line 62-Col. 7, line 17; Col. 8, lines 7-29; and Col. 10, line 4-Col. 11, line 6 of Wiatrowski et al.).

As for claim 7, Wiatrowski et al. teaches a programmable communications receiver having multi-level priority sampling wherein one designated frequency is assigned a high level of priority and wherein the remaining designated channels are assigned an identical lower priority whereby when any of the lower equal level priority channels is active, the control means shall, according to the predetermined sequence, only periodically switch to the single high level frequency to determine whether such frequency is active and to maintain the receiver on said higher priority frequency if it is (Abstract; Col. 1, lines 43-65; Col. 3, lines 1-20; Col. 8, lines 30-57; and Col. 9, line 31-Col. 10, line 3 of Wiatrowski et al.).

As for claim 8, Wiatrowski et al. teaches a programmable communications receiver having multi-level priority sampling in which the predetermined sequence checks for activity on the higher priority channels more frequently than the lower priority channels, whereby user attention to activity on the highest such channel is further assured by such more frequent check for activity thereon (Abstract; Col. 1, lines 18-42; Col. 4, lines 26-67; Col. 6-32; Col. 6, line 62-Col. 7, line 17 of Wiatrowski et al.).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-4 & 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiatrowski et al. (US Patent 5806002) as applied to claim 1 above, and further in view of Englert et al. (US Patent 5247703).

As for claim 3, Wiatrowski et al. teaches a programmable communications receiver having multi-level priority sampling including (Abstract; Col. 1, lines 9-65; and Col. 3, line 41-Col. 4, line 9 of Wiatrowski et al.).

What Wiatrowski et al. does not explicitly teach is the scanner means and display means.

However Englert et al. teaches a computing system a scanner means whereby one of the communications and broadcast receivers is automatically switched by the control means sequentially to each frequency defined within a range for frequencies, means for pausing the sequential switching in response to a signal present from the detect means, the control means continuing to periodically switch the communications receiver according to the predetermined sequence whereby the communications or broadcast scanning shall be interrupted by the presence of a signal on one of the multiple priority communications frequency (Abstract; Col. 1, lines 5-10 & 40-56; Col. 2, line 40-Col. 3, line 9; and Col. 6, lines 16-39 of Englert et al.).

It would have been obvious to one of ordinary skill of the art at the time the invention was made to incorporate a radio communications apparatus that may both receive and transmit radio frequency ("RF") signals and that can scan a plurality of

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channels over a predetermined sequence, as taught by Englert et al., in the scanned are assigned multiple levels of receive priority by the scanning communication unit of Wiatrowski et al., because Wiatrowski et al. already a communication unit in which a priority scan occurs, wherein priority scan comprises automatically scanning (Abstract of Wiatrowski et al.).

The motivation of this combination would be the effect of scanning of radio frequencies in RF communication systems of a multiple transceiver system, as taught by Wiatrowski et al. in Col. 1, lines 5-7, because it is to minimize the audio holes caused by scanning. Digital technologies technology; such as CDMA, has the potential to relieve the problems of analog technology; such as static, loss/interruption of signal when passing through cells, and failure to get a connection because of congestion (Col. 1, lines 41-54 of Englert et al.). The incorporation of both transceivers would minimize waiting time for a transceiver to access a communication channel assigned to a multiple transceiver system and an operator could transmit over the priority channel quickly without reaching to the main unit to adjust the manual controls or waiting for the transceiver to scan to priority channel (Col. 2, lines 21-37 of Englert et al.).

As for claim 4, Wiatrowski et al. teaches a programmable communications receiver having multi-level priority sampling, whereby the periodic switching of the communications receiver according to the predetermined sequence is conducted in the background whereby no audio holes; which reads on claimed no interruption to reception of broadcast signals, occurs unless the presence of a signal is detected on

one of the communications priority frequency (Abstract; Col. 4, lines 26-49; Col. 5, lines 1-43; and Col. 11, lines 26-65 of Wiatrowski et al.).

As for claim 6, Englert et al. teaches a programmable communications receiver having multi-level priority sampling including display means operatively interconnected to the control means and frequency entry means to allow the user to view the frequency being entered and the identity and priority of the designated frequency and to view which of said designated frequencies is active when the receiver is being maintained on an active priority frequency and to view the priority level thereof (Col. 4, lines 61-67; Col. 5, lines 1-9; Col. 6, lines 30-39; Col. 7, lines 1-19; and Col. 10, lines 4-24 of Englert et al.).

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janelle N. Young whose telephone number is (571) 272-2836. The examiner can normally be reached on Monday through Friday: 8:30 am through 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on (571) 272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

 3/19/07

QUOCHIEN B. VUONG
PRIMARY EXAMINER

JNY
March 15, 2007